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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	NO. CR 12-00834 EMC
	)	
Plaintiff,	)	
	)	SENTENCING MEMORANDUM
v.	)	
	)	Hearing Date: May 14, 2014
MONICO DOMINGUEZ,	)	Time: 2:00 p.m.
	)	
Defendant.	)	
	)	
	)	

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**INTRODUCTION**

Pursuant to Criminal Local Rule 32-5(b), the United States respectfully submits this sentencing memorandum concerning defendant Monico Dominguez. On February 24, 2014, a jury found the defendant guilty of committing the August 11, 2011 armed robbery of the Garda armored car facility in Santa Rosa, California and attempting to commit a second armed robbery of that same facility on August 6, 2012. The jury found the defendant guilty of violations of 18 U.S.C. § 1951(a) – Conspiracy to Commit Robbery Affecting Interstate Commerce (Counts One and Eight); 18 U.S.C. § 1951(a) –

1 Robbery Affecting Interstate Commerce (Counts Two and Nine); 18 U.S.C. § 924(c) – Possession of a  
2 Firearm in Furtherance of a Crime of Violence (Counts Three and Ten); 18 U.S.C. § 1957 – Money  
3 Laundering (Counts Four through Six); and 31 U.S.C. § 5324(d) – Structuring (Count Seven).

4 The defendant is now facing a 32 year mandatory minimum arising from his two convictions  
5 under 18 U.S.C. § 924(c), the first of which involved the brandishing of an AK-47 assault rifle. The  
6 government gave the defendant repeated chances to avoid this 32 year mandatory minimum. At some  
7 point prior to trial, the government offered the defendant a plea deal “in the low 20’s,” but the defendant  
8 rejected the offer. Again, as trial approached, the government re-offered the defendant the same plea  
9 deal, even though the government had already spent considerable time preparing its case for trial. The  
10 defendant, yet again, rejected the deal. This failure to accept responsibility is the driving force behind  
11 the 32 year mandatory minimum that the defendant is now facing. Even in his post-trial interview with  
12 probation, the defendant kept the farce alive and continued to deny his involvement in the August 11,  
13 2011 robbery. He continued to deny that he was the man who threatened these innocent guards’ lives  
14 while pointing an AK-47 at them and making off with almost \$1 million in cash, which he spent lavishly  
15 for the ensuing year. The defendant chose to refuse to come to grips with his wrongdoing and, instead,  
16 to take the case to trial, in spite of the overwhelming evidence against him. That choice, and not the  
17 heavy-handedness of the government or the Court, is responsible for the 32 year sentence the Court must  
18 now impose.

19 Considering the factors set forth in 18 U.S.C. § 3553(a), the government respectfully requests  
20 that the Court sentence the defendant to a sentence of 32 years in custody with a three year period of  
21 supervised release, and a \$1000 special assessment. The government submits that a 32 year term of  
22 imprisonment followed by a three year term of supervised release is not greater than necessary to reflect  
23 the seriousness of the offense, afford adequate deterrence, and protect the public, consistent with 18  
24 U.S.C. § 3553(a).

### 25 **FACTUAL BACKGROUND**

26 The government agrees with and incorporates by reference the facts as set forth in the  
27 Presentence Investigation Report (“PSR”). PSR ¶¶ 8-23.

## ARGUMENT

Following the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220, 245 (2005), this Court may consider any of the sentencing factors set forth in 18 U.S.C. § 3553(a) when imposing sentence, irrespective of the sentencing guidelines calculation applicable to the offense of conviction. *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008).

### I. The Applicable Guideline Range

The government agrees with the Probation Office's guideline calculations. PSR ¶¶ 27-61. The Total Offense Level is 34 and the defendant's Criminal History Category is I, yielding a guideline range of 151-188 months. The 7 year mandatory minimum for Count Three and the 25 year mandatory minimum for Count Ten must run consecutively with any other sentence imposed. *See* § 924(c)(1)(D)(ii) ("no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed for the crime of violence . . . during which the firearm was . . . carried."). Therefore, the applicable sentencing range available to the Court is a range of 384-572 months imprisonment. The government and Probation both recommend a sentence at the low-end of that range.

### II. Application Of The Factors In 18 U.S.C. § 3553(a) Demonstrates That A Sentence Of 32 Years Imprisonment Is Reasonable.

The statutory sentencing factors support the 32 year sentence recommended by the government and Probation. The offense conduct in this case was egregious, and there is no telling what might have happened if law enforcement had not intervened to stop the second armed robbery. The Court sat through a lengthy trial in this case, so the government will not rehash the facts in great detail. In sum, the defendant pointed an AK-47 assault rifle at a Garda guard, Aun Yath, before tying him up and robbing the Garda warehouse for almost \$1 million. Then the defendant got greedy and tried it again about a year later, armed with a firearm and body armor. The body wire recordings that the Court heard depict a defendant who had no concern for human life. He is heard talking about threatening the guards' lives and their families. He discusses the prospect of using a long range gun as a sniper weapon. He talks about his plan to take the money and flee the country to Costa Rica. This was a very serious offense and the Court's sentence will send a strong message that armed robberies will not be tolerated.

**CONCLUSION**

Based upon the reasons set forth above, the United States respectfully requests that the Court impose the sentence of 32 years in custody, to be followed by three years of Supervised Release, with a \$1000 special assessment.

DATED: May 7, 2014

Respectfully submitted,

MELINDA HAAG  
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/s/  
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